

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LARRY STINER,)	No. C 05-5400 JF (PR)
)	
Petitioner,)	ORDER DENYING PETITIONER'S
vs.)	MOTION FOR APPOINTMENT OF
)	COUNSEL
S. W. ORNOSKI, Warden,)	
)	
Respondent.)	
_____)	(Docket No. 4)

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court ordered Respondent to show cause why the petition should not be granted. Respondent has filed an answer addressing the merits of the petition, and Petitioner has filed a traverse. Petitioner also filed a motion for appointment of counsel. The Court DENIES Petitioner's motion for appointment of counsel (docket no. 4) without prejudice.

DISCUSSION

Petitioner moves the Court for appointment of counsel. Petitioner requests that the Court appoint counsel because the issues are particularly complex, he has limited educational background, and he believes that an evidentiary hearing is necessary to

1 resolve the claims in this instant petition. See Pet.'s Mot. at 1-2. However, the Sixth
2 Amendment's right to counsel does not apply in habeas corpus actions. Knaubert v.
3 Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986). 18 U.S.C. § 3006A(a)(2)(B) authorizes
4 appointment of counsel to represent a habeas petitioner whenever "the court determines
5 that the interests of justice so require and such person is financially unable to obtain
6 representation." The decision to appoint counsel is within the discretion of the district
7 court. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986), cert. denied, 481 U.S.
8 1023 (1987); Knaubert, 791 F.2d at 728; Bashor v. Risley, 730 F.2d 1228, 1234 (9th
9 Cir.), cert. denied, 469 U.S. 838 (1984).

10 The Court concludes that the interests of justice do not require appointment of
11 counsel at this time. Petitioner has aptly presented his claims and the petition is now
12 submitted for the Court's review. An evidentiary hearing does not appear necessary in
13 the instant case. Accordingly, Petitioner's motion for appointment of counsel (docket no.
14 4) is DENIED without prejudice. The Court will review the merits of the petition in a
15 separate written order.

16 IT IS SO ORDERED.

17 DATED: 7/30/07


JEREMY FOGEL
United States District Judge

1 A copy of this order was mailed to the following:

2 Larry Stiner
3 B-19861
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5 San Quentin, CA 94974

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